

EXHIBIT 4

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division**

**BOND PHARMACY, INC., d/b/a AIS
HEALTHCARE,**

Plaintiff,

V.

ANTHEM HEALTH PLANS OF VIRGINIA, INC., d/b/a ANTHEM BLUE CROSS AND BLUE SHIELD,

Defendant.

Case No. 1:22-cv-01343-CMH-IDD

MEMORANDUM IN SUPPORT OF PLAINTIFF’S MOTION
FOR LIMITED EXTENSION OF CLOSE OF FACT DISCOVERY DEADLINE

Plaintiff/ Counter-Defendant Bond Pharmacy, Inc., d/b/a AIS Healthcare (“AIS”), hereby requests the Court extend the close of fact discovery deadline in this litigation as it relates to discovery involving non-party the Health Law Partners, P.C. (“HLP”). In support of the motion, AIS states as follows:

1. AIS filed a Complaint in this matter on November 23, 2023.
2. Anthem Health Plans of Virginia, Inc., d/b/a Anthem Blue Cross and Blue Shield (“Anthem”), filed a Motion to Dismiss AIS’s Complaint on February 3, 2023.
3. The Court denied Anthem’s Motion on April 12, 2023.
4. Anthem answered AIS’s Complaint and asserted a Counterclaim for breach of contract against AIS on April 26, 2023.
5. AIS filed a Motion to Dismiss Anthem’s Counterclaim on May 31, 2023.

6. The Court denied AIS's Motion to Dismiss Anthem's Counterclaim on July 17, 2023.

7. AIS answered Anthem's Counterclaim on July 31, 2023.

8. On July 17, 2023, the Court issued an amended scheduling order in this action, setting the following deadlines:

- September 1, 2023: Deadline for notices of deposition;
- September 12, 2023: Close of fact discovery;
- September 22, 2023: Deadline for expert disclosures for party with the burden of proof;
- October 6, 2023: Deadline for disclosures for responsive experts;
- October 20, 2023: Deadline for rebuttal expert disclosures for the party with the burden of proof;
- November 15, 2023: Close of expert discovery;
- November 22, 2023: Deadline to file list of witnesses to be called at trial, written stipulation of uncontested facts, and copies of trial exhibits;
- November 29, 2023: Deadline to object to opposing party's witness and exhibit lists; and
- December 1, 2023: Deadline to file motions for summary judgment.

9. The Court has not set a trial date in this matter.

10. AIS and Anthem (the "Parties") have worked diligently to exchange discovery requests, produce substantial volumes of responsive documents, and complete depositions.

11. To that end, in its review of Anthem's document productions, AIS discovered communications between Anthem and a law firm, HLP, that are relevant to the claims and defenses underlying this litigation.

12. Accordingly, on July 14, 2023, AIS issued a subpoena to HLP for the production of non-privileged documents and the deposition of HLP's corporate representative on a list of specific topics.¹ See **Exhibit A**.

13. After several conferrals, HLP produced 20 documents. HLP failed to produce a log identifying any responsive documents withheld from production on the basis of the attorney-client or work-product privilege.

14. HLP agreed to produce its corporate representative for deposition pursuant to Federal Rule of Civil Procedure 30(b)(6).

15. On September 1, 2023, AIS deposed HLP's corporate representative, Robert Dindoffer. Mr. Dindoffer was unprepared to answer questions on behalf of HLP regarding AIS's deposition topics, despite initially testifying that he was prepared to do so. HLP refused to answer almost all of AIS's questions on the basis of improper privilege objections.

16. In response to HLP's improper and obstructionist conduct, on September 11, 2023, AIS filed a motion in the District Court for the Eastern District of Michigan seeking an order compelling HLP to comply with the terms of the subpoena (the "Motion to Compel"). See **Exhibit B**. AIS simultaneously filed a motion to expedite the proceedings related to its Motion to Compel to accommodate the discovery deadlines in this action. See **Exhibit C**.

¹ AIS also issued a subpoena to the Dresivic, Iwrey, Kalmowitz & Pendleton Law Group, A Division of the Health Law Partners, P.C. (the "NY Affiliate"), on July 14, 2023. HLP accepted service of the subpoenas on behalf of itself and the NY Affiliate and agreed that its corporate representative would testify on behalf of both entities.

17. AIS now moves the Court for a brief extension of the current deadline for the close of fact discovery limited to pursuing discovery regarding HLP.

18. AIS requests that the close of fact discovery, scheduled for **September 12, 2023**, be extended to **October 10, 2023**, only as it relates to HLP.

19. Good cause exists for granting AIS's Motion. A brief extension will afford the District Court for the Eastern District of Michigan sufficient time to rule on AIS's Motion to Compel. It will also allow AIS sufficient time to depose HLP and seek discovery against HLP if its Motion to Compel is granted.

20. This Motion is not made for the purpose of undue delay, and has been submitted in advance of the expiration of the current deadline for the close of fact discovery.

21. Additionally, because no trial date has been set and the motion relates to a narrow area of discovery, the requested extension will not result in prejudice to any party or improperly delay the litigation.

22. Counsel for AIS and Anthem met and conferred on the motion, and Anthem's counsel does not consent to the motion.

WHEREFORE, for the foregoing reasons, AIS requests a brief extension of time to complete fact discovery as it relates to HLP up to and including October 10, 2023.

Dated: September 11, 2023

Respectfully submitted,

By: 

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BOND PHARMACY, INC., d/b/a AIS HEALTHCARE,)	
)	
Plaintiff,)	Case No. 1:22-cv-01343-CMH-IDD
)	
v.)	
)	
ANTHEM HEALTH PLANS OF VIRGINIA, INC., d/b/a ANTHEM BLUE CROSS AND BLUE SHIELD,)	
)	
Defendant.)	
)	

**[Proposed] ORDER GRANTING PLAINTIFF’S MOTION
FOR LIMITED EXTENSION OF THE CLOSE OF FACT DISCOVERY DEADLINE**

Having considered the Motion of Plaintiff/ Counter-Defendant Bond Pharmacy, Inc., d/b/a AIS Healthcare (“AIS”), for Limited Extension Of The Close Of Fact Discovery Deadline and any responses thereto, it is hereby:

ORDERED that the Motion is GRANTED; and it is further

ORDERED that the deadline for fact discovery in this action as it relates to discovery involving non-party the Health Law Partners, P.C. (“HLP”), shall be extended up to and including October 12, 2023.

Dated: _____

The Honorable Claude M. Hilton
United States District Judge